



January 30, 2007

ELECTRONICALLY FILED

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ex Parte Notice

Re: Petition of BellSouth Telecommunications, Inc. For Forbearance
Under 47 U.S.C. § 160 From Enforcement of Certain of the
Commission's Cost Assignment Rules - WC Docket No. 05-342

Dear Ms. Dortch:

Yesterday the undersigned and Susan M. Gately, on behalf of the AdHoc Telecommunications Users Committee, Karen Reidy, on behalf of COMPTTEL, Anna Gomez and Chris Frentrup, on behalf of Sprint/Nextel, and Jonathan Lechter, on behalf of Time Warner Telecom met with Al Lewis, Acting Chief of the Pricing Policy Division of the Wireline Competition Bureau, Deena Shetler, Deputy Chief of the Pricing Policy Division and Division Staff members regarding the above-referenced matter. The attachment hereto reflects the matters discussed at the meeting.



Ms. Marlene Dortch
January 30, 2007
Page 2 of 4

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James S. Blaszak'. The signature is fluid and cursive, with the first name 'James' being more legible than the last name 'Blaszak'.

James S. Blaszak
Levine, Blaszak, Block and Boothby, LLP
2001 L Street, NW
Suite 900
Washington, DC 20036
202-857-2550

Counsel for
The Ad Hoc Telecommunications Users
Committee

Cc: Al Lewis, Acting Chief of the Pricing Policy Division of the Wireline
Competition Bureau

Deena Shetler, Deputy Chief of the Pricing Policy Division and Division
Staff of the Wireline Competition Bureau



Ms. Marlene Dortch
January 30, 2007
Page 3 of 4

**BellSouth Petition for
Forbearance from Cost Allocation Rules
(WC Docket No. 05-342)**

- If BellSouth's Petition were granted, or were deemed granted, on March 6, 2007, BellSouth would be free to price gouge for switched and special access services.
 - Merger conditions prevent some special access price increases for a limited time, but the data that have revealed existing price gouging and that could disclose future profit margins would not be available.
 - Earnings from interstate *switched* access would also be undetectable publicly available data.
 - Market forces will not prevent price gouging.
 - GAO has confirmed that in many instances competitive alternatives for special access do not exist.
 - Data in this docket and other Commission proceedings are consistent with GAO's findings.
 - Buyers of switched access cannot use market forces to control pricing. The Commission has recognized the market failure and has never suggested deregulating switched access charges.
- Price caps regulation does not eliminate the need for Commission mandated cost allocations.
 - Without properly allocated revenue and cost data, the Commission cannot know whether its price caps prescriptions are properly specified, i.e., whether they are producing a competitive result.
 - Elimination of the sharing requirement does not equate to Commission approval of price gouging.
 - In 2001 the Commission retained cost reporting requirements, and in 2004 convened a Federal-State Joint Conference on Accounting issues to review the requirements that BellSouth seeks to eliminate.
 - Grant of BellSouth's' petition would violate section 254(k) of the Act
 - Exogenous costs
 - Non-RLEC USF subsidies



Ms. Marlene Dortch
January 30, 2007
Page 4 of 4

- Elimination of cost and revenue allocations would allow unfettered cross-subsidizations.
 - The Commission recognized in 2001 that, “[p]ayments from other carriers may enable a carrier to offer service to its customers at rates that bear little relationship to its actual costs, thereby gaining an advantage over its competitors.” *ISP Remand Order*, 16 FCC Rcd 9151, para. 68 (2001)
 - In its opposition to the Missoula Plan, Verizon recognizes that cross-subsidization disadvantages competitors and hurts consumers.
- Digital networks do not preclude rational cost allocations. Neither analog nor digital carrier networks are single use/service networks.